

# O'REILLY LAW GROUP, LLC

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December 20, 2013

Sent Via Email to [medicalmarijuana@health.nv.gov](mailto:medicalmarijuana@health.nv.gov)

Marla McDade Williams  
Deputy Administrator  
Division of Public and Behavioral Health  
c/o Nevada Early Intervention Services  
3811 W. Charleston Blvd., Ste. 112  
Las Vegas, Nevada 89102

Re: Questions regarding proposed sections of 453A

Ms. Williams:

On behalf of O'Reilly Law Group, and in anticipation of the upcoming workshop on December 23, 2013, we are submitting the following questions and requests for clarification regarding the proposed additions to Chapter 453A of the Nevada Administrative Code circulated by your Division.

I look forward to discussing this memo with you prior to the December 23, 2013 public workshop, or having these issues addressed as part of the workshop.

## **Proposed Sections of Chapter 453A and Related Questions/Requests for Clarification**

### **Proposed Section 26, Paragraph 8:**

*8. To assist the Division in considering the criteria of merit set forth in subsection 8 of NRS 453A.328, the integrated plan of the proposed medical marijuana establishment for the care, quality and safekeeping of medical marijuana from seed to sale, including, without limitation, a plan for testing and verifying medical marijuana, a transportation plan, and procedures to ensure adequate security measures, including, without limitation, building security and product security.*

### **NRS 453A.352, Paragraph 5:**

*5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a patient who holds a valid registry identification card, or the designated primary caregiver of such a*

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*patient. Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.*

**Question regarding Proposed Section 26, Paragraph 8 and NRS 453A.352(5):**

Will Cultivators initially purchase product from licensed caregivers and Medical Marijuana card-holders that are currently growing? Is there a limit to the total number and frequency of these purchases while still complying with NRS 453A.352(5)? May such a seller be compensated?

**Proposed Section 26, Paragraph 11:**

*11. Evidence that the applicant has a plan to staff, educate and manage the proposed medical marijuana establishment on a daily basis, which must include, without limitation:*

*...  
(d) A plan to minimize the environmental impact of the proposed establishment.*

**Question regarding paragraph 11 of Section 26:**

What must be included in the environmental impact plan? Will such a plan need to be created by a professional group, similar to an environmental impact report?

**Proposed Section 26, Paragraph 12:**

*12. To assist the Division in considering the criteria of merit set forth in subsections 6 and 7 of NRS 453A.328, a proposal demonstrating:*

- (a) The likely impact of the proposed medical marijuana establishment in the community in which it is proposed to be located; and*
- (b) The manner in which the proposed medical marijuana establishment will meet the needs of the persons who are authorized to engage in the medical use of marijuana.*

**Question regarding paragraph 12 of Section 26:**

How and by whom is the likely impact determined?

**Proposed Section 26, Paragraph 13"**

*13. If a local government in which a proposed medical marijuana establishment will be located has not enacted zoning restrictions, and the applicant is not required to secure approval that the applicant is in compliance with such restrictions, a professionally prepared survey*

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*demonstrating that the applicant has satisfied all the requirements of NRS sub-subparagraph (II) of subparagraph (2) of paragraph (a) of subsection 3 of NRS 453A.322.*

**Question regarding Proposed Section 26, Paragraph 13:** If local zoning restrictions are enacted after License Approval and the sites are not approved, is there a grace period for submitting alternate locations?

**Proposed Section 51:**

- 1. A medical marijuana establishment shall not sell or transport a lot of usable marijuana, edible marijuana products or marijuana-infused products until all required quality assurance testing has been completed.*
- 2. A medical marijuana establishment shall ensure that all required quality assurance testing has been performed on a marijuana product each time after any marijuana the establishment is selling or transporting has changed form.*

**Questions regarding Proposed Section 51:**

How is "changed form" defined?

**Proposed Section 52:**

*A medical marijuana establishment shall not:*

- 1. Lend any part of the income or property of the establishment without receiving adequate security and a reasonable rate of interest;*
- 2. Purchase property for more than adequate consideration in money or cash equivalent;*
- 3. Pay compensation for salaries or other compensation for personal services that is in excess of a reasonable allowance;*
- 4. Sell any part of the property or equipment of the establishment for less than adequate consideration in money or cash equivalent; or*
- 5. Engage in any other transaction that results in a substantial diversion of the income or property of the establishment.*

**Questions regarding Proposed Section 52:**

How is "more than adequate consideration" defined or determined?

**Proposed Section 53:**

- 1. Except as otherwise provided in this section, the only persons who may be on the premises of a medical marijuana establishment are:*
  - (a) A medical marijuana establishment agent;*
  - (b) A patient who holds a valid registry identification card; or*

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*(c) The designated primary caregiver of a patient who holds a valid registry identification card.*

*2. Any person other than those authorized to be on the premises of a medical marijuana establishment pursuant to subsection 1 must obtain a visitor identification badge from a medical marijuana establishment agent prior to entering the premises of the medical marijuana establishment.*

...

**Questions regarding proposed Section 53:**

As to subsection 2 of proposed Section 53, how is "premises" defined?

**Proposed Section 55:**

*A medical marijuana establishment shall:*

*1. Ensure that each medical marijuana establishment agent has his or her medical establishment agent registration card in his or her immediate possession when the medical marijuana establishment agent:*

- (a) Is working or providing volunteer services at the establishment; or*
- (b) Is transporting marijuana for the establishment.*

*2. Not allow an individual who does not possess a medical marijuana establishment agent registration card issued under the medical marijuana establishment registration certificate to:*

- (a) Serve as an officer or board member for the establishment;*
- (b) Be employed by or have a contract to provide services to the establishment; or*
- (c) Provide volunteer services at or on behalf of the establishment.*

...

**Questions regarding proposed Section 55:**

Are companies servicing any part of the facilities (i.e. AC Repair Company) required to have a registration card?

**Proposed Section 79:**

*1. A medical marijuana dispensary must affix to each container or package containing edible marijuana or marijuana-infused products sold at retail a label which must include, without limitation:*

...

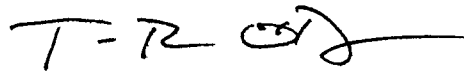
- (j) List of all ingredients and any allergens;*

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**Question regarding proposed Section 79:**  
How is "allergens" defined?

Very truly yours,

O'REILLY LAW GROUP, LLC

A handwritten signature in black ink, appearing to read "T-O'Reilly", with a stylized flourish at the end.

Timothy O'Reilly, Esq.

TOR:jcg